

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

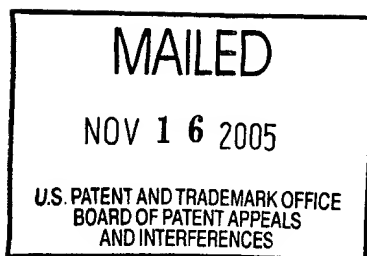
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte KEN R. POWELL,  
KEVIN W. HARTLEY, ELEANOR B. MAXWELL  
and  
COREY C. SNOOK

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Appeal No. 2005-2473  
Application 09/301,749

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ON BRIEF

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Before THOMAS, KRASS, and RUGGIERO, Administrative Patent Judges.  
THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 19 through 24, 26 and 28 through 34. Independent claim 19 is reproduced below:

19. A system for operating with a plurality of portable cards each having a card memory, and a store having a plurality of products, the system comprising:

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a plurality of cash register stations, each cash register station including

an electromagnetic detector for generating first signals corresponding to product pricing and for generating second signals identifying products selected for purchase;

a card interface for reading third signals corresponding to product pricing from the card memory of one of the portable cards;

a first processing unit that executes a first program in a first memory to correlate second signals with first signals,

wherein the system also includes a plurality of second processing units, each second processing unit executing a second program in a second memory, to determine a discount quantity by correlating second signals from the electromagnetic detector, in a respective one of the cash register stations, with the third signals read by the card interface, in the respective one of the cash register stations.

The following reference is relied on by the examiner:

Powell	5,884,278	Mar. 16, 1999
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Claims 19 and 29 stand rejected under 35 U.S.C.

§ 102(e) as being anticipated by Powell. This same reference is utilized by the examiner to reject claims 20 through 24, 26, 28 and 30 through 34 under 35 U.S.C. § 103.

Rather than repeat the positions of the appellants and the examiner, reference is made to the Brief and Reply Brief for

appellants' positions, and to the Final Rejection and Answer for the examiner's positions.

OPINION

For the reasons set forth by the examiner in the Answer, the statement of the rejection of which appears to be identical to that set forth in the Final Rejection, we sustain the rejection of claims 19 and 29 under 35 U.S.C. § 102 and the remaining claims on appeal under 35 U.S.C. § 103.

As to appellants' arguments presented in the principal Brief on appeal, we note initially that page 10 of the Brief states that "claim 19 represents claims 19 and 29" and page 13 of the principal Brief on appeal also states that "the limitations of claim 19 represent claims 20-24, 26, 28, [and] 30-34." Therefore, as to the rejection of all claims on appeal under 35 U.S.C. § 102 and 35 U.S.C. § 103, appellants regard the limitations of claim 19 as representative of all claims on appeal.

Contrary to appellants' views expressed first at page 10 of the principal Brief that the examiner's position is not made clear as to what correlation the examiner makes with respect to the claimed first and second processing units, our

reading of the Final Rejection and Answer indicates otherwise. We also find nothing vague about the examiner's positions with respect to the core portion of the final rejection at the top of page 11 of the principal Brief on appeal. Notwithstanding the examiner's rather loose correlation within 35 U.S.C. § 102 of the features recited in the claims to the teachings of Powell as recognized in the arguments at pages 10 and 11 of the Reply Brief when taken as a whole, the examiner does indicate a general correlation within the statute of the claimed features to what is taught in the applied prior art.

The focus of appellants' arguments as to the rejection under 35 U.S.C. § 102 appears to be within the remarks made at pages 12 and 13 of the principal Brief on appeal. In characterizing the teachings at figure 14 of Powell, appellants note that figure 13 in that reference indicates that financial computer 800 is common to the checkout stations with the emphasis placed at page 13 of the principal Brief on appeal that the claims require a plurality of second processing units. Since the subject matter of claim 19 requires a system environment, the reliance upon financial computer 800 in the various system figures of Powell is not misplaced since there is at least one financial computer 800

in each store. Therefore, when considered from an overall system point of view including a plurality of stores, there are a plurality of such second processing/financial computers to the extent recited at the end of representative claim 19 on appeal.

In considering the merits of this initial rejection under 35 U.S.C. § 102 at pages 2 and 3 of the Reply Brief, we note that appellants reference the examiner's statement of the rejection at pages 3 and 4 of the Answer rather than any remarks made by the examiner in the responsive argument's portion of the Answer. It also appears that the point to be made at page 3 of the Reply Brief is essentially the same point that there is only one financial computer associated with the cash register computer 930 in representative figure 14 of Powell. It should also be noted that the claimed first and second processing units are not stated in claim 19 to be different processing units even though the disclosed invention identifies computer 42 and financial computer 40 in appellants' own representative disclosed figure 14, for example.

As noted earlier in this opinion, appellants' position at page 13 of the principal Brief on appeal indicates that independent claim 19 is to be considered as well to be

representative of the claims at issue within 35 U.S.C. § 103. In fact, the arguments presented at page 14 of this Brief appear to be arguing the features of independent claim 19 rather than any recitation of non-met features of dependent claim 20, the first identified claim within the rejection under 35 U.S.C. § 103. To the extent appellants are questioning the modifiability within 35 U.S.C. § 103, in the arguments at pages 14 and 15 of the principal Brief on appeal, the fact that the reference does teach even in its Abstract that there is no required change in the software of the conventional checkout counter systems, the reference does teach of changing the overall architecture and in effect the functionality of the Powell system itself from what was known in prior art to Powell. Even though there is emulation of data that is taught in the reference at least to the extent relied upon by the examiner, this does not argue against the claimed functionality and signals that appear to be present in Powell as argued by the examiner. To the extent any modifiability is necessary in the reference, it is worthy of note again that since claim 19 was rejected under 35 U.S.C. § 102 and not 35 U.S.C. § 103, the alleged weaknesses in the examiner's

modifiability arguments as stated at page 4 of the Reply Brief are misplaced.

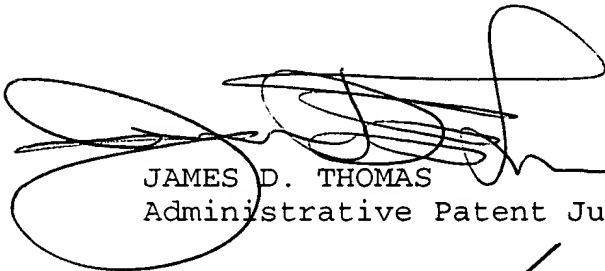
Lastly, the functional recitations outlined at columns 5 through 8 and the associated figure representations of Powell also appear to teach the overall concept of independent claim 19 of achieving a correlation of products that are scanned by the bar code reader with electronic coupons on the card 215. For example, the discussion at column 6 indicates that a product is scanned by a bar code reader and a price determined for the identified product so scanned. Separately, either a paper coupon is also scanned by this bar code reader or, alternatively, a customer card is read for an electronic coupon from which the broadly claimed to be correlated "discount quantity" at the end of claim 19 is determined as a final total price.

In view of the foregoing, the decision of the examiner rejecting various claims under 35 U.S.C. § 102 and 35 U.S.C. § 103 is affirmed.

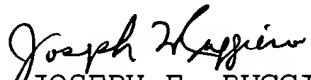
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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

  
JAMES D. THOMAS  
Administrative Patent Judge

  
ERROL A. KRASS  
Administrative Patent Judge

  
JOSEPH F. RUGGIERO  
Administrative Patent Judge

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